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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1127th MEETING

Held at Headquarters, New York,
on Thursday, 26 March 1992, at 3 p.m.

Chairman: Mr. POCAR

CONTENTS

ORGANIZATIONAL AND OTHER MATTERS (continued)

* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1127/Add.1.

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The meeting was called to order at 3.25 p.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Lists of issues to be taken up in connection with the consideration of reports submitted by the States parties in conformity with article 40 of the Covenant

Third periodic report of Yugoslavia (CCPR/C/52/Add.9)

Section I

1. Mr. PRADO VALLEJO said that the points raised in section I were all somewhat general, whereas everyone was well aware that a state of civil war existed in Yugoslavia. The Committee should seek information on how the hostilities had affected the right to life.

2. The CHAIRMAN said that that point was covered by the questions contained in section II.

3. Mr. EL-SHAFEI said that paragraph (d) referred to Yugoslavia, while paragraph (f) referred to Kosovo. While there was an obvious difficulty, in that Kosovo was now an autonomous republic, which had declared a state of emergency, it raised the question of whether the reference in paragraph (d) was to the State of Yugoslavia minus Kosovo. Perhaps the wording could be clarified.

4. Mr. HERNDL said that the use of both Yugoslavia and Kosovo in different paragraphs was acceptable given the situation. In fact Kosovo was a part of Serbia, which had declared a state of emergency that had not been notified. Regarding paragraph (b), the Committee might reword the end of the paragraph to read: "... the adoption of new Constitutions for what the report terms 'federal units'". That would make it clear that the Committee accepted the language used by the Government in its report.

5. Mr. AGUILAR said that the state of emergency in Serbia, of which Kosovo was a part, preceded the recent events referred to in paragraph (d). Accordingly, the phrasing used was appropriate. The use of the word "coartado" in the Spanish text of paragraph (d) did not reflect the language of article 4; it should be replaced by "suspendido".

6. Mr. MAVROMMATIS said that the wording of paragraph (d) should be reordered to ask whether any rights had been derogated from before asking why no state of emergency had been declared, since it was possible for a state of emergency to exist without there being any derogation.

7. Mr. EL-SHAFEI supported that suggestion. With regard to the question of why Yugoslavia had not declared a state of emergency, the Committee needed to exercise extreme caution in its choice of language, since the question arose of what precisely was meant by the term Yugoslavia. If one republic, namely Serbia of which Kosovo was a part, had declared a state of emergency, the Committee could hardly ask why Yugoslavia had not declared a state of emergency. The important point was that raised by Mr. Mavrommatis, namely, exactly which rights had been derogated from whether or not a state of emergency existed. The Committee's role was not to ask a State why it had not declared a state of emergency, but simply to ascertain which rights, if any, had been derogated from.

8. The CHAIRMAN said that in fact the Committee had an interest in both issues; while the issue of whether there had been any derogations was certainly the more important one, it was none the less true that no derogations were allowed unless a state of emergency had been declared. Accordingly, the question should be reworded as suggested by Mr. Mavrommatis.

9. Mr. SADI said that paragraph (a) was a somewhat general question, given which the end of the sentence was redundant. The paragraph should be reworded to read: "Please comment on the effect of the current crisis on the constitutional order in Yugoslavia and the discharge of Yugoslavia's international obligations under the Covenant".

10. Mr. AGUILAR said that while he could accept the proposal relating to the first part of paragraph (a), the end of the paragraph should be retained, since it represented an attempt to determine exactly what constituted Yugoslavia and who precisely was under the jurisdiction of Yugoslavia.

11. The CHAIRMAN said that the issues raised could be dealt with by deleting the middle of the paragraph, reading "under the Covenant, in particular of its obligations".

12. Mr. PRADO VALLEJO said that paragraph (e) was not clear in the Spanish text.

13. Mr. MAVROMMATIS said that the English text was not very clear either.

14. Mr. EL-SHAFEI said that the important point in paragraph (e) was to know what safeguards and remedies were available during armed conflicts.

15. The CHAIRMAN said that the paragraph could be reworded to read: "With reference to article 4, paragraph 2, of the Covenant, what safeguards and remedies are available ...". With reference to paragraph (g), "where" should be replaced by "when".

16. Mr. SADI, referring to paragraph (c), said that States should not be asked to implement article 1 of the Covenant, but to observe or respect it. With regard to paragraph (g), it was not clear that the Committee had the right to ask when Governments intended to ratify.

17. Miss CHANET said that the use of "armed conflicts" in (e) was inappropriate. The term had a specific connotation, and it could be inferred that the Committee was trespassing upon ground covered by the Geneva Conventions.

18. The CHAIRMAN suggested that a reference to military operations might serve.

19. Mr. MÜLLERSON agreed that that expression would cover all the situations the Committee had in mind.

20. The CHAIRMAN said that paragraph (e) would be amended as he had suggested earlier, and that the words "the armed conflicts" would be replaced by the words "military operations"; paragraph (c) would be amended to refer to observance of article 1 of the Covenant.

21. Section I, as amended, was adopted.

Section II

22. Mr. SADI said that the reference in paragraphs (a) and (c) to authorities required clarification. With regard to paragraphs (b) and (c) wording should be added to ask whether investigations and punishment would be carried out if not already carried out.

23. Mr. PRADO VALLEJO, referring to paragraph (a), said that the word "flagrant" should be omitted and the word "stricter" should be replaced by "strict" as there could not be degrees of compliance.

24. Mr. AGUILAR pointed out that paragraph 82 of the report referred to "flagrant violations".

25. The CHAIRMAN said that paragraph (a) should fully reflect the report by referring to "flagrant violations of basic human rights".

26. Miss CHANET said that the reference to armed conflicts in paragraph 82 of the report was inappropriate, given the specific connotation of that term. With regard to paragraph (c) of the list of issues, the reference to paramilitary groups was too narrow. It was obvious from the report that other groups and entities were involved, and while it might be difficult to refer to the armed forces as such the wording needed to be broadened.

27. Mr. HERNDL suggested that the phrase "armed conflicts" might be replaced by "military operations" and that the words "the army and" could be inserted before "paramilitary groups" in paragraph (c).

28. The CHAIRMAN proposed that, in paragraph (a), "armed conflicts" should be replaced by "military operations"; the words "by the authorities" should be deleted and "strictest" replaced by "strict". Similarly, in paragraph (b), "armed conflicts" should be replaced by "military operations". In paragraph (c), the words "the army and" should be inserted before "paramilitary groups" and the words "what have the authorities done" replaced by "what has been done". Paragraphs (d) and (c) could remain unchanged.

29. Mr. HERNDL endorsed the suggestion made earlier by Mr. Sadi, that paragraphs (b) and (c) should be amended to make it clear that the Committee was also interested in knowing whether any investigations of cases and complaints of human rights violations were planned and whether any punishment would be meted out.

30. The CHAIRMAN agreed that the text should be amended accordingly.

31. Section II, as orally amended, was adopted.

Section III

32. Section III was adopted.

Section IV

33. Mr. ANDO noted the reference, in paragraph (b), to "armed conflicts" and suggested that the phrase should be amended in line with previous paragraphs.

34. The CHAIRMAN suggested that the words "involved in" could be misleading and should therefore be replaced by "affected by".

35. Miss CHANET said that, as it stood, the intention of the paragraph was not altogether clear. The Committee required information on how the conflict had affected all ethnic minorities and the civilian population as a whole. She suggested that the paragraph should be reformulated to cover all minorities, without excluding those directly involved in the armed conflicts.

36. Mr. AGUILAR said that, in drafting the paragraph, the intention of the Working Group had been to draw attention to those minorities, such as the Hungarians in Croatia, who were not part of the conflict. He agreed that the paragraph could be reworded, along the lines suggested by Miss Chanet.

37. Mr. HERNDL suggested that, by changing the words "involved in armed conflicts" to "in the various republics", the meaning of the paragraph might be changed in the manner desired by Miss Chanet.

38. Mr. MÜLLERSON suggested, as an alternative wording for the phrase "other than the groups or nationalities involved in armed conflicts", the phrase "including those who are not involved in armed conflicts".

39. The CHAIRMAN said that either wording was acceptable; the main purpose was to receive the necessary information concerning all minorities.

40. Mr. HERNDL pointed out that his phrasing avoided the contentious issue of military conflicts.

41. Mr. ANDO said that the Working Group's intention had been to cover not just the period of the armed conflict, but also the five years prior to the conflicts, when the provisions of article 27 of the Covenant should have been applied. For that reason he favoured the phrasing suggested by Mr. Herndl.

42. The CHAIRMAN proposed that paragraph (a) should be rephrased along the lines suggested by Mr. Herndl.

43. One issue had not been reflected in the list, namely the provisions of article 24 of the Covenant, concerning the rights of children, and he wondered whether it might be appropriate to include reference to the rights of children, perhaps in section IV.

44. Mr. AGUILAR said that it might be more appropriate to include the question of children's rights in section III.

45. Mr. FODOR supported the Chairman's proposal but wondered whether the issue should be covered under section II, dealing with the issues of right to life, liberty and security of the person.

46. The CHAIRMAN suggested the insertion of the following text: "Please clarify whether special measures have been taken to ensure adequate protection of children in areas affected by military operations." When the Committee did not respond, he withdrew his proposal, requesting only that it be reflected in the record.

47. Section IV, as orally amended, was adopted.

48. The list of issues was approved.

The public meeting rose at 4.30 p.m.